IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 2765 of 2005

Between:

1. A. Pydi Raju, S/o.Pydayya, 19513Z
2. B. Narayana murthy, S/o. Narayanaraju, 19514 A
3. K. Shankara Rao, S/o.Sanyasi Rao, 19515 B
4. B. Marayya, S/o.Malakshmi, 19516 F
5. K. Nagabhushanarao, S/o.Appanna, 19517H
6. M. Ramanayya, S/o.Gopalaswamy, 19518 K
7. K. Sadasivarao, S/o.Apalanaidu, 19519 N
8. K. Trimurthulu, S/o.Subramanyam, 19522W
9. P. Demudu, S/o.Apparao,19525A
10. K. Somaraju, S/o.Venkappa 19525A
11. D. Veeraju S/o.Chinnapentayya, 19526 B
12. A. Suban, S/o.Appa Rao, 19529 K
13. G. Rama Rao, S/o.Demudu, 19530N
14. Ch. Ramulu, S/o.Mahalakshmi, 19532T
15. O. Sadhurao, S/o.Appilli, 19537B
16. B. Ramana, S/o.Gangunaidu,19539H
17. S. Chinna Rao, S/o.Simhachalam, 19541N
18. N. Narayanarao, S/o.Suri, 19542R
19. S. Sankar, S/o.Ramulu, 19546Z
20. R. Raju, S/o.Ramudu, 19547A
21. P.Raja Rao, S/o.Potha Raju, 19549F
22. G. Satyanarayana S/o.Naidu 19550H
23. M. Adinarayana, S/o.Pentayya, 19551A
24. S. Venkatarao, S/o.Chinnaiah, 19553R
25. E. Ramadandu, S/o.Sanyasappadu, 19555W
26. P. RajaRao, S/o.Potharaju, 19556Y
27. V. Rama Rao, S/o.Sriramulu, 19558A
28. B. Trinadharao, S/o.Pentayya, 19559B
29. N. Demudu, S/o.Sannibabu, 19560F

30. N. Raju, S/o.Mohana rao, 19561H
31. S. Subba Rao, S/o.Apparao, 19562K
32. G. Rama Rao, S/o.Appanna, 19564R
33. J. V.Suribabu, S/o.Suryanarayna 19566W

All the applicants are worked as Unskilled Labourer (USL) in the Naval Dockyard, Visakhapatnam, R/o.Visakhapatnam.

..... PETITIONERS

AND

1. Union of India, represented by its Secretary,

Ministry of Defence, Central Secretariat, New Delhi.
2 Chief of the Naval Staff, Naval Headquarters, New Delhi.
3 Flag officer commanding-in-chief, Eastern Naval Command, Naval Base,

Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ order or direction particularly one in the nature of Mandamus or any other appropriate writ declaring the order dated 09-09-2004 in O.A.No.1489 of 2003 on the file of the Honourable Central Administrative Tribunal, Hyderabad Bench, Hyderabad as illegal, arbitrary, contrary to the various G.O.s of the Government of India concerning absorption and regularization of the employees, discriminatory, unconstitutional and consequently by nullifying the same direct the respondents to restore the temporary status with effect from 07-01-2002 granted in furtherance of O.M.No.51016/12/90-Estt. dated 10-09-1993 of the Government of India together with all consequential and attendant benefits including regularization and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:DR.P.B.VIJAY KUMAR

Counsel for the Respondent No.: MR.KOTI REDDY IDAMAKANTI

The Court made the following:

ORDER: (Per Hon'ble Sri Justice G. Bikshapathy)

The writ petition is filed by the petitioners assailing the order passed by the Central Administrative Tribunal, Hyderabad in O.A.No.1489 of 2003 dated 09.09.2004.

2. The matter relates to conferment of temporary status to casual labourers. More than 250 persons including the petitioners worked as casual labourers right from 1982-83 in the Naval Dockyard. However, the Government introduced a scheme under circular OM.No.51016/2/90-Estt.(c), dated 10.09.1993 to confer Temporary status of the casual labourers, who had worked for 240 days in a calendar year. In pursuance of the said circular, Temporary status was granted to 54 Unskilled Labourers (hereinafter referred to as USLS) and thereafter, the 54 USLs were sought to be terminated by the orders of the 4th respondent dated 21.05.2002 on the ground that they are not entitled to the benefit of Temporary Status under the said Scheme for want of 240 days of service, and the said orders came to be challenged in O.A.No.723 of 2002 and the said O.A. was disposed of on 18.06.2002 on merits. In view of the said directions given by the Tribunal, notices dated 27.06.2002 were served to the petitioners and others seeking their representations, if any, against the proposed withdrawal of the temporary status. In the said notice, it was pointed out that the conditions laid down in para2 (b) & (c) dated 10.09.1993 have not been satisfied. Against the said notice, the petitioners and others have submitted a similar reply dated 25.07.2002 contending *inter alia* that since they have satisfied the conditions 2 (b) & (c) mentioned in the office Memorandum of DOPT, they are entitled for the grant of Temporary status in accordance with the Scheme. Having received the said similar representations from all the applicants by individual, the respondents issued proceedings dated 31.07.2002 holding that the applicants have not completed 240 days of engagement after the issuance of the O.M. dated 10.09.1993, and the said proceedings came to be challenged before the Tribunal in O.A.No.973 of 2002. The said O.A. came to be disposed of with a direction to consider the claim of the applicants and pass appropriate orders. In pursuance of the said direction, temporary status of only 16 casual labourers, was conferred with temporary status and the remaining persons have been denied the benefits. Therefore, aggrieved by the order of denying the temporary status, the O.A.No.1489 of 2003 was filed and the said O.A. was dismissed by an order dated 09.09.2004. Against the said order, the present writ petition has been filed.

3. The learned counsel for the petitioners submits that the very approach of the

authorities is illegal inasmuch as they tried to calculate 240 days of service after 10.03.1993 which procedure was found to be illegal by the Tribunal in O.A. No.973 of 2002 and the Tribunal directed the authorities to consider as to whether the petitioners had worked for 240 days prior to 10.03.1993, and if so, they should be continued in the temporary status.

4. It is the case of the petitioners that even though the service certificates were issued to the petitioners by the immediate officers, but they were not taken into consideration and the Tribunal having held that the authorities were not directed to conduct any enquiry, refused to go into the matter, and therefore, the order is liable to be set aside and it requires re-consideration.

5 . In so far as the documentary evidence produced by the workmen is concerned, the learned standing counsel for the Central Government submits that since the workmen did not submit any documents before the Tribunal, their case was dismissed.

6. After going through the order and also after hearing the learned counsel for both the parties, we find that the Tribunal did not concentrate on the enquiry aspect and it held that there was no such direction to the authorities to conduct enquiry into the matter. But as can be seen from the order of rejection issued in pursuance of the orders passed in O.A.723 of 2002, the petitioners submitted the documentary evidence and also the service certificates issued by the immediate officers, but they were rejected on the ground that they did not relate to the period subsequent to 10.03.1993 and they related to the period prior to 10.03.1993 and that the approach of the authorities is contrary to the order of the Tribunal in O.A.No.973 of 2003 inasmuch as the petitioners are possessing the necessary documents to support their case that they worked 240 days.

7. We are of the considered view that the relief should not be denied on the ground that no enquiry was directed to be conducted by the Tribunal, and accordingly, we hold that the order of the Tribunal is not sustainable and set

aside the same, and direct the authorities to conduct a fresh enquiry to find as to whether the petitioner has completed 240 days prior to 10.03.1993. It is also open for the petitioners to produce necessary documents in support of their case. The authorities are directed to consider the same and pass appropriate orders. It is needless to mention that if similarly situate workers were already granted the temporary status on the basis of the documentary evidence of the Department, the same benefit, including restoration of their temporary status, should also be extended to the petitioners.

8. Accordingly, the writ petition is allowed. The matter is remitted back to the authorities for fresh consideration keeping in view the observations as indicated above. This exercise shall be done within a period of two months from the date of receipt of a copy of this order.

9. At this stage, the learned counsel for the petitioners submits that after the disengagement of the petitioners, fresh casual labourers are being engaged by the Government and therefore, he seeks appropriate directions to the authorities to give preference to the petitioners.

10. On the other hand, the learned standing counsel for Central Government submits that in view of the ban, the authorities are not engaging any casual labourers.

11. However, We make it clear that in case of engaging any casual labourers in future, the first preference shall be given to the petitioners and in case, the petitioners fail to report to the duty, the engagement shall be given to the others.

_____

(G. BIKSHAPATHY,J)

_____

(P.S. NARAYANA, J

Date: 03.03.2005

Ksn

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Ministry of Defence, Central Secretariat Union of India,

New Delhi.
2. Chief of the Naval Staff, Naval Headquarters, New Delhi.
3. Flag officer commanding-in-chief, Eastern Naval Command,

Naval Base, Visakhapatnam.

4. 2 CD copies

5. The Registrar, Central Administrative Tribunal, Hyderabad Bench, Hyderabad

*Form-NIC-OGS/WP{**JA**}*